



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives returned **S.104** to the Senate with amendments. This bill **LEGALIZES THE PRACTICE OF TATTOOING** by persons who are not physicians. South Carolina law currently provides that it is unlawful for a person to tattoo any part of the body of another person. The only exception is for a licensed physician if, in the doctor's medical opinion, it is necessary to tattoo a person when performing cosmetic or reconstructive surgery. This bill legalizes the practice of tattooing by persons who are not physicians. It mandates the use of strict sterile techniques for tattooing and prohibits tattooing of the head, face or neck. All tattoo artists will be required to use only single-use, disposable needles. It also makes it unlawful for anyone to perform tattooing on a person impaired by drugs or alcohol or a person with a skin rash, pimples, boils, keloids, sunburn, infections or unhealthy conditions at the tattoo site. The legislation authorizes tattooing on an individual who is at least twenty-one years of age. Tattoo artists are required to verify age with a drivers' license or other specified photographic identification card. Parental consent is required for tattooing to be performed on an individual who is at least eighteen, but under twenty-one years of age.

Every tattoo artist in South Carolina will be required to register with DHEC. A tattoo artist must be at least twenty-one years old, comply with OSHA guidelines, have a current Red Cross First Aid Certification and CPR certification, and annually complete a course in blood borne pathogens and tattooing infection control approved by DHEC. A tattoo artist must conspicuously display these certifications in the facility where he works.

In order for a tattoo facility to receive a DHEC license the operator must: obtain a copy of the DHEC sterilization, sanitation and safety standards for tattoo facilities and commit to meet these standards; pass an initial facility inspection and pay a licensure fee to be set by DHEC; have a certified copy of an ordinance passed by the local governing body where the business will be located approving the tattooing of persons within its jurisdiction; display the facility license and notice of blood donor disqualification regulations.

The bill prohibits DHEC from issuing a permit for a facility if the location is within 1000 feet of a church, school or playground. A person who intends to apply for a tattoo facility license must advertise at least once a week for three consecutive weeks in a local newspaper. The bill provides that the governing of a county or municipality by ordinance may regulate the location of a licensed tattoo facility more strictly than the siting provisions provided in this legislation.

A tattoo facility may only provide tattooing and may not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing other than tattooing.

The bill requires DHEC to establish standards and promulgate regulations for tattoo artists and tattoo facilities. It gives DHEC the authority to conduct inspections of

tattoo facilities and DHEC may revoke, suspend, or refuse to issue or renew a tattoo permit for violation of the law.

The bill specifies that all fees and monetary penalties collected must be used exclusively to support the tattoo licensure program. It authorizes DHEC to charge an additional fee, if necessary, to cover the cost of on-site facility inspections.

The bill provides that a person who violates a provision of this act is guilty of a misdemeanor and must be fined up to \$2500 or imprisoned up to one year or both. It also specifies that money collected from fines must be remitted to DHEC and used to offset the cost of administering the tattoo regulation program.

The House concurred in Senate amendments to **H.3528** and enrolled the bill for ratification. Designated "Hunter's Law," this legislation makes provisions regarding the issuance of a **CERTIFICATE OF BIRTH RESULTING IN STILLBIRTH**. This bill provides that the state registrar shall develop a form entitled 'Certificate of Birth Resulting in Stillbirth' for distribution to all South Carolina delivering hospitals. The hospital shall provide and offer to complete this form, prior to discharge, for mothers whose delivery resulted in a fetal death of twenty completed weeks of gestation or more or a weight of three hundred fifty grams or more. The certificate must be filed with the county registrar within three days following the delivery. The 'Certificate of Birth Resulting in Stillbirth' does not constitute proof of a live birth and does not replace the requirement to file a Report of Fetal Death.

The House concurred in Senate amendments to **H.4615** and ordered the bill enrolled for ratification. This is a bill **AUTHORIZING THE PIEDMONT MUNICIPAL POWER AGENCY TO OPERATE BEYOND ITS ORIGINAL FIFTY-YEAR LIMIT** to coordinate with the license extension for the operation of the Catawba Nuclear Plant that Duke Power obtained from federal regulators. This bill revises provisions relating to contracts to buy power between a joint power and energy agency and its constituent municipalities, so as to provide for the extension of contracts to buy power beyond the original fifty-year limit when the date of operation of the electrical utility agent is extended by all agencies having jurisdiction over such an extension.

The House concurred in Senate amendments to **S.154** and ordered the bill enrolled for ratification. This bill **REVISES FINGERPRINT REVIEW AND CRIMINAL RECORD CHECKS FOR APPLICANTS FOR INITIAL EDUCATION CERTIFICATION**. The bill provides that a person enrolled in a teacher education program in South Carolina must be advised by the college or university that his prior criminal record could prevent certification as a teacher in this State in accordance with State Board of Education guidelines. The legislation provides that before beginning full-time clinical teaching experience in this State, a teacher education candidate shall undergo a state criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints by the Federal Bureau of Investigation. The applicant pays the costs associated with the FBI background checks. Information reported relative to prior arrests or convictions will be reviewed by the State Department of Education, and the State Board of Education when warranted, according to board guidelines. A teacher education candidate with prior

arrests or convictions of a serious nature that could affect his fitness to teach in the public schools of South Carolina may be denied the opportunity to complete the clinical teaching experience and qualify for initial teacher certification. An individual who is denied this opportunity as a result of prior arrests or convictions, after one year, may request reconsideration under guidelines established by the State Board of Education. Under the legislation, a graduate of a teacher education program applying for initial teacher certification must have completed the FBI fingerprint process within eighteen months of formally applying for initial teacher certification or the fingerprint process must be repeated.

The House approved and enrolled for ratification **S.1044**. This bill **AUTHORIZES THE AREA COMMISSION OF FLORENCE-DARLINGTON TECHNICAL COLLEGE TO ENTER INTO GROUND LEASE AGREEMENTS WITH A PRIVATE ENTITY** for the creation and operation of an on-campus facility.

The House approved and sent to the Senate **H.4797**, a bill pertaining to **YOUNG DRIVERS**. The bill provides that a student fifteen years of age who is enrolled in a high school driver's training course is not required to obtain a beginner's permit while participating in the course and accompanied by an instructor. Currently, there is no age requirement in this section. The bill also repeals a section of law which requires the Department of Motor Vehicles, within ten days after notice of a moving traffic violation by a person under the age of eighteen years, to mail a copy of the charges to the owner of the vehicle used in the violation.

The House amended, approved, and sent to the Senate **H.4798**. This bill **ALLOWS THE DEPARTMENT OF MOTOR VEHICLES (DMV) TO ACCEPT ELECTRONICALLY FILED LIEN INFORMATION** for newly acquired vehicles, vehicles already titled, and lien releases. The bill also authorizes and provides for the DMV to collect a transaction fee of up to five dollars per transaction from commercial parties who transmit or receive data from the DMV pursuant to this legislation. The bill requires that these fees will be used by the DMV to defray the expenses of this program.

HOUSE COMMITTEE ACTION

JUDICIARY

The full House Judiciary Committee met on Tuesday, March 23, and gave a report of favorable with amendment on **H.3827**, a bill requiring **CONVICTIONS FOR VIOLENT CRIMES TO BE RECORDED ON DRIVERS' LICENSES AND SPECIAL IDENTIFICATION CARDS**. The legislation provides that a person who has been convicted of or pled guilty or no contest to a felony designated as a violent crime on or after January 1, 2005, must have an identifying code to be determined by the Department of Motor Vehicles affixed to his driver's license or special identification card at the time the person obtains or renews the driver's license or special identification card. The code must be developed by the department and made known to the appropriate law enforcement officers and other judicial officials of this

State. The legislation provides that a person convicted of or pleading guilty or no contest to a violent crime on or after January 1, 2005, in this State shall, surrender his South Carolina driver's license or special identification card to the court. The clerk of court within ten days shall transmit the driver's license or special identification card, if applicable, together with notice of the felony and whether or not it is a felony considered to be a violent crime, to the Department of Motor Vehicles. The driver's license or special identification card is considered revoked and the department shall keep a record of the revocation. If the felony which the person was convicted of or pled guilty or no contest to requires the suspension or revocation of his driver's license or special identification card, the driver's license or special identification card must not be returned to the person.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met on Wednesday, March 24, and reported out several bills.

The committee gave a report of favorable with amendment on **H.4818**, a bill pertaining to the **COLLECTION OF LATE FEES BY LENDERS**. The legislation prohibits lenders from collecting delinquency charges on previous payments from current payments. The provision brings South Carolina law into accordance with the Federal Trade Commission's Credit Practices Rule.

The committee gave a favorable report on **S.886**, a bill providing a **DEFINITION OF A NEW MANUFACTURED HOME**. This bill revises definitions used in the licensure and regulation of persons who manufacture, sell, install, modify, or alter manufactured homes, so as to define "new manufactured home."

The committee gave a favorable report on **S.827**, the "**CERTIFIED INDUSTRIAL HYGIENE AND CERTIFIED SAFETY PROFESSION TITLE PROTECTION ACT.**" The legislation requires an individual who holds himself out as a certified industrial hygienist or a certified safety professional to be certified by the American Board of Industrial Hygiene or the Board of Certified Safety Professionals. Criminal penalties are provided for violations.

The committee gave a favorable report on **H.4688**, a bill establishing **GIFT CERTIFICATE REQUIREMENTS**. This bill provides that a person may not issue or sell a gift certificate which provides that the certificate expires before the first anniversary of the date on which the certificate is issued or sold. Exceptions are provided. The bill provides that a condition relating to the use of a gift certificate must be stated clearly on the certificate if the condition provides that the certificate decreases in value over a period of time or that a fee is charged against the balance of the certificate after a certain period of time.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee reported favorable with amendment on H.4291, a bill which enacts the **NURSE LICENSURE COMPACT ACT**.

The National Council of State Boards of Nursing developed model legislation for a multi-state nurse licensure compact in 1998. If a nurse is licensed and is in good standing in a compact state, that license will allow the nurse to practice in any of the other compact states.

As reported by the Committee, this bill authorizes South Carolina to join the Nurse Licensure Compact to:

1. facilitate the responsibility to protect the public's health and safety;
2. ensure and encourage the cooperation between states with regard to nurse licensure and regulation;
3. facilitate the exchange of information regarding nurse regulation, investigation, and adverse licensure actions;
4. promote compliance of laws governing the practice of nursing in each jurisdiction;
5. grant participating states authority to hold nurses accountable for meeting all of state practice laws in the states where their patients are located at the time care is rendered.

For purposes of this bill the following definitions apply:

1. party state – any state that has adopted this compact;
2. home state – the party state that is the nurse's primary state of residence;
3. remote state – a party state, other than the home state.

The compact maintains a coordinated licensure information system to collect and share information on nurse licensure and enforcement actions. When a nursing license application is received in a party state, the licensing board must check through the coordinated licensure information system to verify whether the applicant holds or has ever held a license issued by any other state, whether there are any restrictions on the applicant's multi-state privilege, and whether any other adverse licensure action by any state has been taken against the applicant's license.

The bill specifies the conditions under which a nurse may be issued a license to practice in participating and non-participating states. Under the compact a license to practice nursing issued by a home state to a resident in that state must be recognized by each party state as authorizing a multi-state licensure privilege to practice in each party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure, license renewal, and all other applicable home state laws. A party state may, in accordance with that state's due process laws, revoke, suspend, or limit the multi-state licensure privilege of any licensee to practice in its state and may take any other actions under its applicable state laws that are necessary to protect the health and safety of its citizens. The practice of nursing in a party state subjects a nurse to the jurisdiction of the nurse licensing board and the laws and the courts in that party state.

If a party state takes an action against a nurse, it must notify the administrator of the coordinated licensure information system. The administrator must notify the home state of any actions taken by other states in the compact. The compact provides due process procedures for a nurse against whom an adverse licensure action is ordered.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

H.5023 *UPKEEP OF ROADSIDE VEGETATION* Rep. Martin

This bill allows the Department of Transportation to mow beyond thirty feet from the pavement roadside vegetation adjacent to Interstate 85 in Anderson County.

LABOR, COMMERCE AND INDUSTRY

H.5017 *PREMIUM SERVICE CONTRACTS* Rep. Cato

This bill clarifies provisions of premium service contracts and disclosures, including renewals.

H.5020 *GUARANTEED ENERGY, WATER, OR WASTE WATER SAVINGS CONTRACTS* Rep. Cato

This bill revises provisions relating to guaranteed energy savings contracts, so as to provide that these contracts shall be known as guaranteed energy, water, or waste water savings contracts and to further provide for the requirements, terms, and conditions of these contracts.

H.5037 *DISPUTES REGARDING PAYMENT OF WAGES* Rep. Cato

This bill revises definitions regarding payment of wages, so as to include bonuses and expense reimbursements in the definition of wages. The bill revises provisions relating to payment of wages due to discharged employees, so as to provide that under certain circumstances, wages due must be paid within thirty days of separation of employment. The bill revises provisions relating to the unconditional payment of wages an employer concedes are due, so as to provide that an employer does not have to pay the amount of the wages that are in dispute. The bill provides that if a successful civil action is brought for disputed wages, treble damages and attorneys' fees cannot be recovered if the court finds a good faith dispute concerning the amount of wages due. The legislation provides for an appeal to the Administrative Law Judge Division. The bill clarifies that the Director of the Department of Labor, Licensing and Regulation or his designee shall take appropriate

action, whether legal or administrative, against the assessed employer for collection of an assessed penalty. The bill revises provisions relating to the right of the Commissioner of Labor to enter and to conduct an investigation, so as to include a document relevant to the total compensation package in the items that may be inspected.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.5011 *PODIATRY* Rep. Mahaffey

This bill revises definitions related to podiatrists and the practice of podiatry.

WAYS AND MEANS

H.5009 *MIDDLE-CLASS CHARITABLE CONTRIBUTIONS*

***ACT* Rep. Limehouse**

This bill allows a credit against state individual income tax liability for charitable contributions over two hundred fifty dollars (for an individual return) and over five hundred dollars on a joint return, made by taxpayers who do not itemize deductions on their federal tax return. The maximum credit that may be claimed under the bill is five hundred dollars, or one thousand dollars for a joint return filed by married taxpayers. The bill provides that these credits are not allowed if estimated state individual income tax revenue growth is less than two percent.

S.767 *SOUTH CAROLINA MILITARY FAMILY RELIEF FUND* Sen. Courson

This bill establishes and provides for implementation of the South Carolina Military Family Relief Fund. The bill authorizes voluntary check-off contributions to the Fund on state individual income tax returns. Revenue in the Fund would be used to award need-based grants to families of eligible military personnel called to active service as a result of the September 11, 2001, terrorist attacks.

S.852 *DEFINITIONS UNDER THE SOUTH CAROLINA*

***RETIREMENT SYSTEM* Sen. McGill**

This bill provides that for purposes of the South Carolina Retirement System and the Police Officers Retirement System (the Systems), the definition of "public service" includes (in addition to the current definition) paid service rendered as an employee of a postsecondary public technical college or public junior college, or a public four-year or postgraduate institution of higher education, while the system member was a student at that institution.

The bill also provides that regarding deductions from compensation for both the Systems, contributions are deductible on up to and including forty-five days' termination pay for unused annual leave. The bill further provides that if a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty-five days' termination pay for unused annual leave for each termination payment for unused annual leave received by the member. The bill also provides that only an amount up to and

including forty-five days' pay for unused annual leave from the member's last termination payment shall be included in a member's average final compensation calculation.

H.5027 UNIFORM AND FAIR GOLF COURSE VALUATION ACT
OF 2004 Rep. Harrell

This bill provides a method for determining fair market value of golf course real property for property tax purposes. The bill requires the assessor to determine the fair market value of golf course real property by taking the average of the golf course gross revenues for the preceding three calendar years. The bill provides that the fair market value is gross revenue multiplied by the gross revenue multiplier, a factor equal to one and one-tenth. The bill also provides for valuation of golf course property if there is less than three years of golf course revenue, and provides that the golf course owner has the right to appeal the valuation.

H.5036 PROPERTY TAX ON BOATS Rep. Edge

This bill provides that a boat on which the interest portion of indebtedness is deductible under the Internal Revenue Code as an interest expense on a qualified primary or second residence is also a primary or secondary residence for purposes of ad valorem property taxation and is considered real property rather than personal property for property tax purposes.

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